

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division**

GILBERT JAMES,

Plaintiff,

v.

Civil Action No. 3:11cv00221

ENCORE CAPITAL GROUP, INC., *et al.*

Defendants.

DEFENDANTS' STATUS REPORT

Defendants, Encore Capital Group, Inc., Midland Funding, LLC, and Midland Credit Management, Inc. (collectively, the "Midland Defendants"), by counsel, and in advance of the conference call scheduled to be held on February 13, 2012, hereby submit this report regarding the status of the discovery process set forth in the Court's Order of January 26, 2012 (Dkt. No. 131), and as a follow up to the conference call held with the Court on February 6, 2012. The outstanding discovery issues can be segregated into two groups: the discovery requests that specifically target electronic discovery (Plaintiff Request Nos. 9-10) and all other requests. This status report addresses those groups separately.

Non-Electronic Discovery

With one minor exception relating to the Fair Credit Reporting Act materials held by "senior management," the Midland Defendants have now retrieved and produced to Troutman Sanders all of the items implicated by the Court's Order that fall outside of Request Nos. 9 and 10. On February 10, 2012, the Midland Defendants sent to Plaintiff's counsel by mail documents that are responsive to the following outstanding categories of information:

1. All documents sent by the Midland Defendants to the Special Master in the matter of *Midland Funding, LLC v. Brent*, Case No. 3:08-cv-01434 (N.D. Ohio 2009);

2. All drafts of any training materials regarding the preparation and/or signing of affidavits from January 1, 2009 to the present;
3. The copies of the Midland Defendants' contracts with their "XDocs" and "YGC" vendors, as well as all additional manuals regarding those systems;
4. All materials submitted to state attorneys general and/or the FTC regarding the Midland Defendants' current affidavit process;
5. An unredacted copy of the Midland Defendants' Sale Agreement with Capital One, and a copy of the transmittal letter that accompanied the electronic file containing Plaintiff's account data;
6. Additional emails to and from the members of the CDIA;
7. Manuals, emails, and other documents regarding the Midland Defendants' use of the "Automated Batch Interface System;"
8. Additional Fair Credit Reporting Act compliance materials and memoranda, including those relating to the decision in *Johnson v. MBNA*; and
9. All prior deposition testimony and affidavits executed by the identified employees (Nancy Kohls, Greg Call, Angelique Ross, Jill Brown, Josh Knebel, Gail Stanger, Rita Melconian, Jane Hughes, Markie Myers, Kathleen Tomczik, Kyle Hannan and Michael Burger) with respect to any claim at issue in this action.

With regard to those documents that have not yet been produced to opposing counsel, Troutman Sanders expects to complete their internal review and all supplemental production with respect to the limited additional categories of these documents (*e.g.*, FCRA materials, complaints filed by third parties) and interrogatory responses no later than February 17, 2011.

Electronic Discovery

Since the last status report, the Midland Defendants have resolved their outstanding technical issues and have now been able to export the requested emails to Troutman Sanders for review. To comply with the Court's order, the Midland Defendants have confirmed that they must retrieve and review approximately over 50,000 emails, as well as a large number of even more attachments and other peripheral documents. This information must also be hosted by a third-party vendor at substantial expense due to the massive volume of data involved. Preliminary estimates indicate that this review will likely take somewhere between three to four

weeks to complete, at a cost of several hundreds of thousands of dollars. Troutman Sanders is actively pursuing all means to expedite this process as quickly as possible.

Processing of this electronic data will begin today in order to identify the precise amount of data that will need to be reviewed. Once this processing has been completed, the Midland Defendants will advise the Court on a more accurate timeline and budget. In the interim, the Midland Defendants continue to explore ways by which this discovery process can be streamlined, and they will update the Court with any additional suggestions.

**ENCORE CAPITAL GROUP, INC.,
MIDLAND FUNDING, LLC and
MIDLAND CREDIT MANAGEMENT, INC.**

By: /s/ Timothy J. St. George
Of Counsel

David N. Anthony (VSB No. 31696)
Timothy J. St. George (VSB No. 77349)
*Attorneys for Encore Capital Group, Inc., Midland Funding, LLC
and Midland Credit Management, Inc.*
TROUTMAN SANDERS LLP
1001 Haxall Point
Richmond, Virginia 23219
Telephone: (804) 697-1200
Facsimile: (804) 698-5118
david.anthony@troutmansanders.com
tim.stgeorge@troutmansanders.com

John C. Lynch (VSB No. 39267)
*Attorney for Encore Capital Group, Inc., Midland Funding, LLC
and Midland Credit Management, Inc.*
TROUTMAN SANDERS LLP
222 Central Park Avenue, Suite 2000
Virginia Beach, Virginia 23462
Telephone: (757) 687-7765
Facsimile: (757) 687-1504
john.lynch@troutmansanders.com

CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of February 2012, I filed a true and correct copy of the foregoing on the Court's Electronic Case Filing System, which will send a notice of electronic filing to:

Leonard A. Bennett, Esq.
Susan M. Rotkis, Esq.
CONSUMER LITIGATION ASSOCIATES, P.C.
763 J. Clyde Morris Blvd, Suite 1A
Newport News, VA 23601
Telephone: (757) 930-3660
Facsimile: (757) 930-3662
Email: lenbennett@cox.net

Matthew J. Erausquin, Esq.
CONSUMER LITIGATION ASSOCIATES, P.C.
1800 Diagonal Road, Suite 600
Alexandria, VA 22314
Telephone: (703) 273-6080
Facsimile: (888) 892-3512
Email: matt@clalegal.com

Dale W. Pittman, Esq.
THE LAW OFFICE OF DALE W. PITTMAN, P.C.
The Eliza Spotswood House
112-A West Tabb St.
Petersburg, VA 23803
Telephone: (804) 861-6000
Facsimile: (804) 861-3362
dale@pittmanlawoffice.com

Counsel for Plaintiff

/s/Timothy J. St. George
Timothy J. St. George (VSB Bar No. 77349)
*Attorney for Encore Capital Group, Inc., Midland
Funding, LLC and Midland Credit Management, Inc.*
TROUTMAN SANDERS LLP
1001 Haxall Point
Richmond, Virginia 23219
Telephone: (804) 697-1254
Facsimile: (804) 698-6013
tim.stgeorge@troutmansanders.com